

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

**Itzhak BENTWICH**

Group Art Unit:

Serial No:

Examiner:

Filed :

For : **BIOINFORMATIALLY DETECTABLE  
GROUP OF NOVEL REGULATORY GENES  
AND USES THEREOF**

**PETITION TO WAIVE THE REQUIREMENT OF SECTION 1.52(e)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned hereby respectfully petitions the Commissioner or the Commissioner's designee to waive the requirements Section 1.52(e) relating to the electronic filing of an application in the U.S. Patent Office. The undersigned is petitioning for the waiver of this rule under Section 1.18(3) for the following reasons:

1. The present application as currently filed is a continuation of U.S. patent application 10/321,503, filed on December 18, 2002 (parent application).

2. The parent application as originally filed was quite large in size and scope and was filed containing both written documents as well as various disks of information.

3. The U.S. Patent Office, on January 30, 2003, mailed a Notice to File Missing Parts of a Non Provisional Patent Application - Filing Date Granted, since the material contained on the disks failed to comply with 37 C.F.R. 1.52(e).

4. Applicant has been endeavoring to comply to the Patent Office rules relating to the filing of electronic

documents by submitting a continuation application utilizing the newly created electronic filing system (EFS).

5. Due to the unusually large size and scope of this continuation application, the EFS system was unable to process the application either over the Internet or directly at the U.S. Patent Office due to a problem of parsing and decrypting the voluminous amount of data attempted to be filed using the EFS system. This problem was due in part to the software currently used by the EFS system.

6. To attempt to circumvent this problem, we have filed the continuation application in "native format" (i.e. Specification and Application Data Sheet in XML format, and large tables and sequence listing in ASCII format, rather than in the standard EFS format of the extremely large encrypted file.

7. At the suggestion of William Stryjewski and Jay Lucas of the U.S. Patent Office, the undersigned is submitting one CD-R of the continuation application as well as a copy of the continuation application on a second CD-R. It is important to note that the present application contains no new data over the previous parent application.

8. Each CD-R includes a first zip file containing all of the native XML files of the specification and application data sheet, a second zip file containing ASCII table files and a third zip file containing the ASCII file of the sequence listing of the present application.

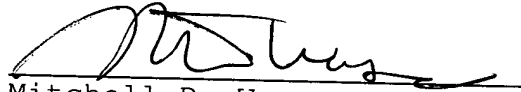
9. Should the present petition be granted, the EFS Team will process the CD-R's into the EFS system.

10. Applicant will gladly work with the EFS Team in order to help them fine-tune the EFS system to handle the electronic filing of exceptionally large patent applications.

Since applicant has endeavored to utilize the EFS system to file a continuation application for the parent application and, due to no fault of their own, was unsuccessful in filing such an application, it is respectfully petitioned that the rules for electronic filing of application under Section 1.52(e) be waived at the present time to allow the filing of the present application in the manner as outlined hereinabove.

The undersigned is hereby enclosing a check of \$130.00 to cover this petition fee.

Respectfully submitted,



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